App F IX 4

Previous References (1944 45 mun) File No 42-44

Serial Nos 149, 150 151

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Three -

Part B for Selves HO

SUBJECT

Election of a Non-Official President to the Hosadurga Municipality

1983 — 2139 as

Encl -

Bhoopalam Ranjimdurga Hosadurga - Chitaldrug Mills

State that there are no grounds to reconsider the ~~order~~ orders already passed

MU 42-44-149 (1)

No.46 193/44-45

Office of the Deputy Commissioner,
Chitaldrug District,
Chitaldrug District, dated, 3rd April 45.

From

A C Nirvani Gowda, Esq, B A,
Deputy Commissioner, Chitaldrug District, Chitaldrug

To

C Narayanaswamy Naidu, Esq, B A, B.L,
Legal Remembrancer and Secretary to Government,
Law Department, Bangalore

Subject, Election of a non official President to Hosadurga minor Municipality

Sir,

Adverting to Government order No I 13012-6 I 50-43-12 dated the 20th June 1944 conferring on the Hosadurga Minor Municipality, the privilege of electing a non official President from among its members, I have the honour to state that the Municipal Council was reconstituted from 1st July 1944 and the election of the non official President was held on the 29th July 1944. Two candidates namely, Messrs Bheopalam Ranganaikh and B V Ingesha Setty contested ~~contested~~ contested in the election. The former secured 8 votes and the latter 7 votes. Consequently Mr Bheopalam Ranganaikh was declared duly elected.

Subsequently there was an objection petition from Messrs B V Ingesha Setty and three other Municipal Councillors, objecting for reasons stated therein, that the election of Mr Ranganaikh as non official President is invalid and that it may be set aside and a fresh election ordered.

Under Rule 8 of the rules published under Govt notification L 3055/41 207-27-1 dated the 20th November 1927 regulating the election of Presidents of town and minor municipal Councils, the Sub Division Officer, Davangere Sub Division was appointed to hold an enquiry into the validity of the election and to submit a report in the matter. On being asked to explain the delay, the Sub Division Officer has reported that he has completed the examination of witnesses on behalf of the petitioners and that the examination of witnesses on behalf of the counter ~~petitioner~~ petitioner has been posted to the 1st April 1945 and that he could complete the enquiry and submit a report immediately after the 1st April 1945. The Sub Division Officer reports that the delay was inevitable as the case had to be adjourned

6460 L

Election of president to the Hosadurga mlf

adjourned more than once on account of other unforeseen urgent work that had to be attended to on the dates fixed for hearing. I have however asked the Subdivision Officer to expedite his final report in the matter and on its receipt, I shall make a further communication to Government in the matter.

I have the honour to be,
Sir,
Your most obedient Servant,
[signature]
Deputy Commissioner,
Chitaldrug District

C F 1/

1) The report of the D C is submitted for perusal. Further report, as promised by him, will be awaited this respect.

2) It will be seen from the above report that the election for filling up the Presidents seat at Hosadurga (Main Mlf) was held on 29 7 1944. The Shropalam Panchayat was declared elected. There was no objection petition. The D C is beembuddung the enquiry still. It is more than eight months ago that the election washeld & the enquiry is not yet completed. The object of conferring the privilege of a nonoffic President would be lost by such delays at all events. The D C should have considered this as an important case for prompt & speedy enquiry as a nonoff is kept entirely open for no fault of his own. Lawsey [illegible]

7/50

Election of a non official President for Jaffna Town Municipality 3

C F 69]

Continuation Sheet

File No / Current No 6460/2 of Page

4) This is very unsatisfactory. The enquiry must be completed & report submitted within a week.

10/4/45

Min 294

10/4/45

5) The delay is inexcusable when the S D O & the explanation of the concerned officer should be obtained with the remarks of the D C along with the report of the enquiry. Let this come up within 20 days.

12/4/45

12/4/45

6) Draft letter attached

12/4/45

7) A draft letter is perhaps here 12/4

8) Draft letter

12/4/45

To,

The D C Chavakachcheri

R 10211 & 12-4-45 calling for a report on a petition on the subject

OFFICE OF THE MINISTER FOR L S G & P H
Date 10 4 45
No. 8030

6460 ∫ 6928

Re Election of President to Hosadurga Mdl

C F 69]

Continuation Sheet | File No / Current No | of | Page

From the D c chitaldrug
No A 6 1220/44 & 30/4/45
promises to send the report in
the matter early.

9) Subito for personal work
reference to para 5 supra
Mr 26/4

10) Land Secy) Land
26/4/45

11) Putting up on the 29th
Urs
28 4 45

12) Resubmitted for
Land Secy) Land
30 4/45

13) Returned Urs
Urs
30 4 45
Land

14) The report has been received
Mr 5/5

From The D c chitaldrug
No A & c 123/44 & 1-5-45
has a report in the matter

15) Subito

One M. Bhoopalam
Nanjundrah was elected as

BY LAND DEPT
8443

non-official president of the Hosadurga municipal council.

6) The validity of the election of Sri Nanjundaiah has been contested by one Sri B V Nagesha setty and other municipal members on several grounds referred to in the petition

7) The S D O, Davangere who conducted the enquiry in the matter has dealt with only such grounds as are pressed by the petitioners at the time of enquiry. A few other grounds though appear in the objection petition, are said to have not been urged before the S D O. The report of the S D O is put up for perusal. Finally, the S D O is of opinion that the election has been properly conducted and the election of Sri Nanjundaiah may be approved

8) But the D C does not agree with the S D O for reasons stated under para 11 of his report and he, therefore recommends that the election may be set aside

9) In this connection, it may be stated that there are no any irregularities in the proceedings of the election (as seen from the reports) one of the

WD 02139—GPB—70 000—62 46

of fiscal President pl. 1 + 2 adv. a

which is said to have been not pressed by the petitioners is that the Junior Sub-ward of the place ~~is said to have~~ has taken part in the proceedings inspite of their being a senior officer of the P W D who, according to S O, is a member of the Mel el. It is not clear how a junior officer of the P W D of the place ~~could~~ could enter as a member of the Mel el

20) The Law section may, however, be consulted as to whether the election of Mr Nanjundaiah may not be set aside for several irregularities occurred during the proceeding.

21) (The reasons for the delay in submitting this report are given at para 12 of the D-c's letter)

22) Subject with reference to paras 5 & 13 supra

23) In favour of opinion in the findings of the D-c charging with the S D O Dharwar in the case

Ans 5/5

Ans seq. Law wise) Ans 5/5/45

24) Submitted

This is an appeal petition

3/5/45

under R 7 of the Rules contesting the validity of the election of Sri B Nanjundiah as non offl President of the Hosadurga Town Mcl on 29 7 44

25) The main grounds of objection are (vide petition Ex 'P') —

1) that the sub Asst Surgeon was allowed to vote beyond the specified time
2) that Sri Venkata Krishna Sastry a non-voter was ineligible to vote
3) that undue influence was used in respect of Messrs Narayanangar, Subbaraya & Ramaswamiah Amildar
4) that Sri Fakrudin Sab a contractor & the Municipality was ineligible to vote

The other objections were not pressed at the time of arguments

Objection no 1 also —

26) With regard to the SA Surgeon having come late and exercising his vote, it will be seen from the endorse of ~~Nagat~~ the petition and Narayanangar (Ex G & Q) ~~it will be seen~~ that the SAS came by 3 P M and that others were allowed to vote subsequently This is not a serious irregularity

to retake the election the S D O holds
that the voting was regular (Ex A) and
the D C agrees with it (Ex O)

Ground 2 - that one Venkatamuthusamy a non student
was ineligible to vote

27) This contention was given up
before the D C (vide D C's report Ex O) from the
report of the S D O (Ex A) and the deposition
of the petitioner and one Venkatamuthusamy (Ex G & H)
respectively, the fact of his non student
is not proved and he having been
what a minor-pupil compiler, having been
a in the voter's list it appears, there is
not much force in this contention
of the petitioner

Ground 3 —
that undue influence was exerted in
28) respect of one Narayanaiyan Sub Assn
and Ramasamy Aml Assn

2 No specific allegations are made
in the election petition (Ex P) The
Amlds, refraining from voting out of
fear is not proved by any undue
except himself Again one Narayanaiyan
Sub Assn stayed here at Hosdurga,
even though under orders of transfer

to receive his pay the allegation of threat to vote for him an element in bribery by the opponent or Nagendrach under the circumstances no corrupt practice is proved in the absence of independent evidence under S 11 (4) of the Minor Municipalities Act 1933 the SDO holds that there is no undue influence and the DC agrees with it (Fr 'O)

30) Ques (4) — that one Fakrudin a contractor of the Municipality was ineligible to vote, under being disqualified under S 9 1 B (6)

31) Ans — the most important question the SDO holds that there is no disqualification (Pg A) the DC on the other hand disagrees with the SDO and states that the election is vitiated

32) S 9 1 B (6) says that no person who has directly or indirectly by himself or his partner any share or interest in any work done by order of a municipal council or in any contract or employment with a municipal council, may be a member of such a municipal council

33) Petitioner, has not adduced any evidence as to what was the nature of the contract, what amounts

was due and when s 9 (2) (d) contemplates a formal notice to pay arrears of any kind and ~~no~~ no action can be taken until the lapse of three months thereof. The S.D.O holds (vide Ex A') that he was not disqualified from voting

34) The D.C states (Ex O' par 3) that Rs 335/- was due from one Fakirudin for an output of a contract of 1942-43, that the council resolved to remit the amount which was vetoed by the D.C and that subsequent to the election, one Fakirudin has paid up his dues and is no more a defaulter, but ~~till the~~ that he was therefore disqualified on the date of election

35) On a careful reading of s 9 2 (d) it will be seen that arrears defaulter does not ipso facto cease to be a member; that after the D.C's veto, action could have been taken by the council to issue a notice under s 9 2 (d) which was not done till the date of election. Under the circumstances it is for consideration whether this amounts to disqualification

Electing non off Pondent to Hardenberg Mld

For the above reasons the DC holds that the election is vitiated

36/ Another fact to be noticed is that the election took place on 29 7 44. that one Fannadien has changed his domicil subsequently Submitted for personal costs vf to pay 25 rupees

Pte - Mld
Pge 1 wl 9 -
hold of tmd wl
L

37/ One Mr B Nanjundiah was elected as a non-offic al Resident of the Hardenberg Municipality the for-8 votes as against 7 votes secured by Mr B V Nagesa Setty

NKH
18 5 45

38/ The contention in this case is that the Election has been vitiated by many material irregularities Flag O is the report of the DC & Flag A is that of the S & O

39/ The DC agrees with all the findings of the S O O on all the points at issue, except viii (xy) on the point whether Mr Dakruddin's vote was validly proxy or not, the S & O's finding is that it was validly proxy, whereas the DC's view is that his voting at the election was invalid, as such the DC is of opinion that the election has been vitiated by the voting of a disqualified member

40/ From the facts on record it is clear that Mr Dakruddin was due to the Municipality Rs 335/ towards a Standing Contract taken up by him from the Municipality on the date of his election This fact is not

the question at all was a proved fact. There is nothing on record to show that Mr Jabnudson can take shelter under the proviso (c) to Sec 9 (1) (B) (b) of the Act. Hence ~~for~~ ~~9(1)~~ Sec 9(1) (B) (b) applies to Mr Jabnudson, & he is disqualified from being a member of the Municipal Council. Sec 9 goes on to say that if such a person is elected or nominated as a Councillor in contravention of the provisions in sec 9 then "his seat shall be deemed to be vacant". Thus, Mr Jabnudson had no right to continue as a member of the Council much less, a right to vote. Hence he has illegally exercised his voting — & his vote is therefore null & void, & as his vote was counted, the election proceedings are vitiated by this material irregularity.

41) It is unnecessary to consider Sec 9 (2) to decide the case of Mr Jabnudson. It is a section independent of Sec 9 (1) (B) (b) — it ~~[illegible]~~ relates to disqualification acquired after he has been duly elected.

42) Hence the view of the L C is quite correct.

P 78 P

Law Secy

3
12/5/45

43) Cus
12-5-45

Asst Secy
L S & G C

3
14/5/45

Election No. 1 was official Government [illegible] Mississauga Municipality

C F 6]

Continuation Sheet | File No / Current No | of | Page

44) The opinion of the Law Section will be accepted and order issued setting aside the election held & ordering a fresh election

[illegible] for 12/5/45

45) The Legal opinion on may be accepted and the election set aside.

[illegible] 15/5/45

46) yes

37) [illegible] 22/5/45

23/5/45

48) Draft letter attached [illegible] 23/5/45

49) A draft letter is put up [illegible] 23/5

50) Issue attached [illegible] 23/5/45

T.

[illegible] dated [illegible] 11372 of 23/5/45 sets aside the election

Sd A [illegible] 23/5

F P C
T L S G & P H
No. 16 5 45
No 9145

election of non-official pdt to Hosdurga mun mlg

Three petitions from one Sh Bhopalam Nagendrah praying that a hearing may be given in the matter before fresh elections are held.

51) Subs with a note —

The election of Sh Bhopalam Nagendrah as non-official pdt of the Hosdurga mun mlg has been set aside by the pwt memorandum with the Law Section and the D C was requested to hold re-election in this respect.

~~Now, the Nagendrah appeals that strong orders to~~

~~from~~ 52) Now Sh Nagendrah prays that further proceedings ~~for the~~ to hold a fresh election may be ordered to be stopped and that a hearing may be given in the matter

53) In the circumstances, a dft endorsement is put up to the pwt to the effect, ~~that the reply~~ that pwt see no reason to recommend the orders already passed in the matter

54) Subs

Ma

2

55/ Mr Bhoopalam (Gubu) Rangnath of Hosdurg has appealed against the order of Govt setting aside the election of the President of the Hosdurg Municipality for reasons mentioned by him. Mr A. N. Samanamu Aye, Counsel for the petitioner also asked for a stay order in the matter. He wants a hearing.

There are no reasons to reconsider the order of Govt on the matter. The grounds on which the appeals preferred are frivolous, as the Dy. Leo, on enquiry, found Mr Jafrudin Saheb, one of the members of the MLC, as being disabled to continue as a member of the MLC and the Govt have also upheld his decision. We cannot entertain that his petition

9 9 65

56/ Mr Ani endorsement with the effect

Yes/ This petition is rejected

Lakshmi Nathan 30/1/65

57/ There are no valid grounds for interfering

Yes/ 30/1/65

Minister

30/1/65

11/7/65

OFFICE OF THE MINISTER
FILS G&PH
Date 2.7.65
No 26

6460/L

58) I am not quite sure if Sec 9 (1) B (b) of the Act does apply to the case. Mr F owed money under a standing contract for 1942-43. It is not contended that that or any other contract or work ~~subsisted~~ subsisted at the time of election. If he owed money under an old contract it is not a case of a debt, to which the provision of Sec 9 (2) of the Act wd apply, if so, was not a spl notice necessary?

Is it possible to reopen the case, is the Appln filed by Mr Nanjunda (Jinnus) maintainable?

20/7

Law Secy

RV
20-7-45

Agriculture
JUL 20 1945
625

Kindly please say this on Monday in person by 23/7

59) The present Petition being one for Review of an order previously passed by Govt is not maintainable, as the Act does not provide direct the point now raised was fully considered when the Election was set aside - The possibility of a different view about the matter being taken is not regarded as sufficient ground in civil proceedings to entertain a review Petition - On this ground the Petition must be rejected. If for any reason it is considered to be entitled to consideration on the merits I think the case of Mr F. falls under Sec 9 (1) B (b) and not

A

A

9253K

under Sec 9 (2) (e) as the latter seems to cover dues under the provisions of the Act or statutory rules and the former applies to obligations under contract etc

Minister Agriculture

Rv
25-7-45

25/7/45

C IC
FO
JUL
No 751

60) (A) Endt accdgly please

ADDITIONAL CHIEF SECRETARY
No 911
Date 7/8
GOVERNMENT OF HYDERABAD

Addnl Secy
Rvc

Rv 6/8
Rv 7/8/45

61) Dft endorsement
7/8/45

62) A dft endorsement is put up
Ma ~~5/8/45~~
15/8/45

63) 15/8/45

TYPING SECTION
21 AUG 1945
GENL & REV SECTT

Issue no L 1983 dated 13/9/45
states that ens Petitions
rejected.
mr Bhopalam Kanyundrah
Hosadurga
Dt Bellary Dist

B 28/3

Appendix F, G —1]

SUBJECT

Diary No of letter r plied to

General and Revenue Secretariat

( )

the 194

Date of issue

Signed by Mr of R

List of enclosures

Copied by

Examined by

Secretary

Section

File No

Serial No

No 210211 of 12-4-45

To

The D C Chittagong Dt

Sir,

With reference to your letter no A6 123/44-45 of 3-4-45 re the election of ~~Vice President of the~~ the Vice President to the Assam Legislative Assembly, I am directed to state that, as seen from your report, the election was held on 29-7-1944 and the enquiry into the objection petition, as referred to by you has not yet

completed by the S D O, however
though ~~say~~ eight months have
elapsed since then the delay
in submitting a report by the S D O
is inexcusable the explanation
of the concerned officer ~~together with~~
~~has come~~ ~~with no remarks for the~~ maybe obtained immediately for the
delay in this respect ~~and together~~
and the same sent forth, with your remarks, ~~then~~ together
with the final report of the inquiry
~~may be obtained and sent to~~
~~to post~~ ~~within~~ on or before the 20th instant
The time fixed should be strictly adhered to

Thanks etc

Jerry Daro

f/14u

Office of the Deputy Commissioner,
Chitaldrug District,
Chitaldrug, dated, 20th April 1945

No. 123/44-45

From

A C Nirvani Gowda, Esq, B A,
Deputy Commissioner, Chitaldrug District, Chitaldrug

To

Sir C Narayanaswamy Naidu, Esq, B A, B L,
Legal Remembrancer and Secretary to Government,
Law Department, Bangalore

Subject, Election of a non official President to the Hosadurga Minor Municipality

Sir,

Adverting to your letter No L 10211 dated the 12th instant requesting me to expedite the final report of the enquiry on the above subject, I have the honour to state that the Sub Division Officer has sent a report with the connected records But, as the petitioners who filed an objection petition before me, wanted an opportunity to argue on certain important points involved in the case, I have posted the case to the 25th instant On hearing the parties on that day, I shall send the records with my opinion

I have the honour to be,
Sir,
Your most obedient Servant,

Deputy Commissioner,
Chitaldrug District

C M F 1/

$\frac{2}{14^{4}}$

ML 42-44-15

No A6 C 123/44-45

Office of the Deputy Commissioner,
Chitaldrug District,
Dated, Chitaldrug, 1st May 1945

7239

From

A C Nirvani Gowda, Esquire, B A,
Deputy Commissioner,
Chitaldrug District,
Chitaldrug

To

C Narayanaswamy Naidu, Esquire, B A, B L,
Legal Remembrancer and Secretary to Government
of His Highness the Maharaja of Mysore,
Law Department,
Bangalore

Sir,

Subject:- Election of Mr Bhoopalam Nanjundiah as non-official President of the Hosadurga minor Municipality

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In continuation of this office letter of even No dated 20th April 1945 on the above subject, I have the honour to forward herewith a copy of report No R2 P R 216/44-45 dated 7-4-1945 together with the connected records of enquiry received from the Sub Division Officer, Davangere and to state as follows :-

2. On receipt of the above report from the Sub Division Officer, Davangere, the petitioners M/s B V Nagesa Setty and others presented a petition to me requesting that an opportunity may be given to them to address arguments in the case Accordingly the case was posted for hearing on 27th April 1945 and the counsels for the petitioners and the counter-petitioner heard

3 In the election, the counter-petitioner has secured 8 votes and the petitioner 7 votes, the difference being only one vote

4 The main points alleged in the objection petition are th following :-

(a) That the polling Officer allowed the opponent to secure the presence of the Sub Assistant Surgeon beyond the specified time.

(b) that Mr Naraniengar, Sub Overseer and an ex-officio Municipal Councillor was unduly influenced by the opponent and allowed to vote in spite of his transfer prior to the date of election etc

(c) that Mr B Ramaswamiah, the then Amildar and Ex-officio Member of the Municipal Council was unduly influenced and

(d) that one Mr Mohamed Fakruddin Sab, a member of the

the Municipal Council and who is a sheduled contractor of the Municipality and who had not cleared the makret fees due to the Municipality has been allowed to vote when his membership has automatically ceased

The allegation that Mr Venkatakrishnaiah was not a resident of Hosadurga town was not pressed during the course of the arguments

5 As regards the first allegation, the Sub Division Officer reports that there is no provision in the Municipal Act to prevent the late-comers from exercising their votes provided the polling has not closed at the time of their coming In the present case one of the petitioners Mr B V Nagesha Setty has himself admitted in his statement that polling had not concluded when the Doctor arrived and that some other members voted after the Doctor exercised his vote The Sub Division Officer is therefore of opinion that the voting by the Doctor was regular and I agree with him.

6 The second allegation is that Mr Bhoopalam Nanjundiah prevailed upon Mr Narniengar to remain at Hosadurga till the election was over by adopting questionable and unfair means, although he was under orders of transfer Mr Narniengar who has been examined by the Sub Division Officer has deposed that as he did not receive his pay for two months, he had made a representation to the Superintending Engineer to permit him to remain at Hosadurga till the end of that month So the objection that he was prevailed upon by Mr Nanjundiah to remain till the election was over is not tenable But this witness has further deposed that Mr Nanjundiah sent for him and asked him not to vote for Mr Nagesa Setty, who was a Congress -man and that if he did, he would get him punished As a responsible official of Government, there was no need to imagine trouble at the hands of a private individual in discharging his legitimate duties He was also under orders of transfer and he could have freely exercised his vote without fear or favour Mr Nanjundiah when questioned on this point has denied having held out any threat to him The Sub Division Officer, is therefore of opinion that except the statement of this witness, there is no other positive proof of undue influence exercised on the witness. If the Sub-Overseer was really afraid of this threat, what he should have done to get over the --

the apprehended threat is that he should have reported the matter to his official superior and acted according to his free will There i no evidence of his having done so Evidently the plea now put forth that he had to vote for Mr Bhupalam Nanjundiah on account of the threat held out, is only an after-thought and much reliance cannot b placed on it I therefore concur with the opinion of the Sub Divisi Officer, that there is no positive proof of undue influence in this case

7 As regards the third allegation about the undue influence exercised on Mr B Ramaswamiah, the Amildar, by Mr Nanjundiah, the former has deposed that as Mr Nanjundiah had brough two or three of his predecessors to trouble, he did not take part in voting and remained neutral No concrete instance of having brought any of his predecessors to trouble has been given No doubt, it is true that Mr Nanjundiah is a very influential man, but that an Officer of the status of an Amildar should have refrained from votin on account of some imaginary trouble at the hands of a private - individual is nothing short of cowardice and such an Officer is unfi to hold such responsible posts No actual threat is proved or alleg and the Sub Division Officer has therefore concluded that in the - absence of any actual threat held out, the ground urged is not tenable and I agree with him

8 The last allegation is about the vote exercised by Mr Fakruddin Sab This gentleman was shandy contractor under the - Municipality for the year 1942-43 A sum of Rs 335/- was due from hi to the Municipality towards the above contract on the date of election It is therefore contended by the counsel for the petitioners that under Section 9 (1) B (b) of the Minor Municipal Act this - Councillor had a statutory disability of continuing as a member of the Municipal Council and that as such the vote of this member is no valid. The counsel for the counter-petitioner argued that under Section 9 (2) (d) a special notice requiring Mr Fakruddin Sab to pa up the arrears should have been issued for the disqualification to operate and that in this case the failure to issue such a notice has not created such a disability and as such the vote exercised by this member is perfectly valid The Sub Division Officer reports that th

the petitioners should have shown positive evidence of this member having held contract at any time between his having stood as a - candidate for membership and the date of the President's election, x in order to prove that Mr Fakruddin Sab was ineligible to be a Councillor and that he was elected in contravention of the provisions of the Municipal Act and that since no special notice has been issued, he is not disabled from being a Councillor The disqualification of contractual relationship is not a permanent one It continues so long as the contract exists and the interest in it remains and it ceases as soon as the contract ceases Mr Fakruddin Sab owed Rs 335/- on the date of election to the Municipal Council in respect of the shandy contract for 1942-43 The Council in their resolution dated 2-3-1943, had recommended for remission of this amount, but the same was turned down in this office No A6 757/43-44 dated 23-2-1944 After the date of election of the President, he paid up the amount It is therefore evident that this Councillor was all-the-while labouring under a disqualification as he was under a monetory obligation in - pursuance of a contract and not having settled the same The object of the statute is to prevent the conflict between interest and duty - that might otherwise inevitably arise He owed arrears under a - contract to the Municipality and if the Municipality had to reconsider the remission of the same or raise other objections in relation to that contract the presence of this interested member on the Council would have affected their decision His voting at the Presidential election was therefore invalid Incidentally it may be mentioned that the disqualification has since ceased to exist

9 It is argued by the learned counsel for the counter-petitioner that since no special notice has been issued to Fakurddin Sab there is no disability from continuing as a Councillor No doubt, Section 9 (2) d refers to any arrears of any kind but it is only in cases relating to arrears of Mohatarfa, Water-tax, Sanitary Cess etc , that till a special notice is issued and the amount is not paid within three months, no disability arises within that period . In the case of arrears under a contractual obligation, a special notice may of course, be issued but the disqualification exists and continues till the - arrears are paid irrespective of the issue of a notice

10 It is further argued that since no objection was taken either at the time of the election of the Councillors or at the time of the election of the President about the disability of Mr Fakruddin Sab, the disability cannot be considered now I do not think there is any limitation for considering this question under Section 9 It can be considered at any time

11 In the result, I am of opinion that the election of Mr Bhoopalam Nanjundiah as President of Hosadurga Minor Municipal Council has been vitiated by the vote of a disqualified member Though there is no positive proof of undue influence, it is doubtful if the election took place in an undisputably free atmosphere I, therefore, recommend that it may be set aside and a fresh election ordered

12 As regards the inordinate delay in the submission of report, observed by Government, the Sub Division Officer reports that the delay in completing the enquiry was due to the fact that much time was taken to secure the attendance of Mr B Ramaswamiah, Amildar, who is now at Malur, as he pleaded inconvenience to go over to Hosadurga on more than one occasion and that on the day he had come, the Sub Division Officer reports that he was on leave on account of his mother's demise

13 All the connected records accompany

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Chitaldrug District

mns

GEN & PRV SECRT
7394
1 MAY 1945
L S G D'A CH

L G & P H
Ref 11 5 45
1364

మీ దరఖాస్తు మేరకు సంతోషనద
మీరల్ సేట్లు కార్యమేంటి నన్నవి
పైన తెలుపబడ్డ విధి గా సంతవపి
కాతరవర దిన్నదానన గ్రహించి
క్రొంనదు గన్నదవాని చూ పిరం నంజుంటేవున్నను బరేద
మీంత అదవాల్ అతిన్

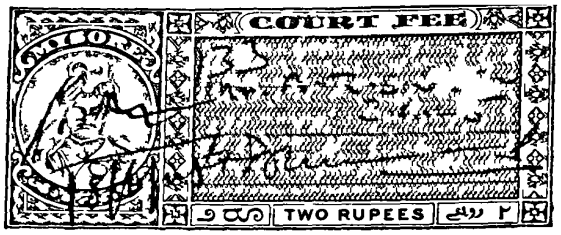
నాప్రియా నాను 25 వరుషగ్రవంశమున
నికి కాలి తి నిమ్మపుట్టి చిరుతుర్ రిప్రుంపటి తివే అనేంబ్లి
ముంకాద నంస్థగ్రహ్లి మేంబరాగిద్దుమునని కాలిపతి
యుల్లి కేలవరాల పైన్ పుని తేంతాగిద్దుదల్లదే 2 పేరం
మీంనగి అధ్యక్షనాగి నేవే నల్లిసిధేనే.

యిటి చిగి మేనినర్ మునని కాలిపతి నేంటిలేక్షన్
మూల్ల పుని తేంతాగ చిత్రేకేంబు ఆతన్ రవరారయిదేం
నదు గన్నద మేనినర్ నంతియు అధ్యక్షస్థానవు యిలేక్షన్
మున్ను 1944 నే జులై తింగళల్లి నేడదు యిదు నాకు నక్కవుమే
దు వారరాగిద్దు యిబ్బరు పైన్ నన నేజాన్స్ పోమేలం
దు రేజుపేషన్ అగిరు తేప్పిరమీంషనరిగే రిమీంమేతన
ద రవానే అగి తామ్మేనం అరుల్ దార్రవరమున్ను నే తిలుతు

యి దరమేవమత్తొబ్బవరమేదు నారరారు -
శ్రీ సుబ్బి నాగిశశేవ్వరు రు తేప్పిరమీంషనల్ నాంధే
బరవరల్లి అతిన్ దాగి విచారణే రు తావగాగిరి నుచ్ తివి
టిన్ నాంధేబరవరనన్నిదియుల్లి 4-5 దినంగళగాగిదా
క్షీవిచారణే నేడరు అవరనన్నదానదరి మేరితిన్ నోంది
నేరు తేప్పిరమీంషనల్ నాంధేబరవరనన్నదిగిరవానే
అయ్యు అదరమేవి అతిన్ దార్రుమనదరవరారు దాగి
అవరనన్నిధి యల్లి రగిదతింగళు 27 రల్లి అక్షన్ మేంటా
యు తడలేవరిగూ యూంక్రాందు అతనరుబరల్లి
అదరేయూవవారగదిందదేగి నావవాశవా
గుత్తిద్దేయే శ్రీదేవరిగే గొత్తు నాను 25 వరుషగళిందలు
ప్రతాంగే కేమాతుక్కొలుదద్దరక్కేలసమాతి నవు న్నాగిరువ

మేడ మీద నుండి యరిందా పట్టి కొట్టినట్లే పదంవ
న్నెపడిదవనాశిష్యుడు యిలా నేనుయు కొగాశిరువ
దత్తిశి తుంబా పేడనపత్తుత్తేనే
తెనపోయిందిదదయ్యలు కళ్ళందకాపు
యిలా విచారదట్టి పూంగాదంశి కరవిమెత్తుత్తే
ప్రేశితేంపే మేంబూరు మంత్రి పురుం దయు కాలి
నపోంశి విజ్ఞేయు నాశి ప్రాత్తిన్నుత్తేనే స్వామి
తమ్మ అత్యంత విజ్ఞేయు నార
క్షిగం
7 5 45
పోంపదుంగలి పూంపాంగం సంబంధిత్తేనే

GEN & REV SECRT
84/81
21 JUL 1945
L S G BRANCH



Before the Government of His Highness the Maharaja of Mysore,

Bangalore

Petitioner Shoopalam Ranjundiah,

Hosadurga

The petitioner has this day filed an application to re-consider the order of the Government No G.11372/M1 42-44-1151 dated 23-5-1945 setting aside the election of the non-official President to the Hosadurga Minor Municipality and directing a re-election in that behalf All the facts justifying the reconsideration of the order of the Government showing that the election that has been held and in which the petitioner was elected as the non-official President is according to law and must be upheld are mentioned in the petition The petitioner submits that it is necessary in the interest of justice that pending the disposal of the petition the Government must be pleased to issue an order staying further proceedings to hold a fresh election

Bangalore,

Dated -6-1945

Advocate for Petitioner.

GEN & REV SECRETARIAT
21 JUNE 1945
L S G BRANCH

COURT FEE
MYSORE
TWO RUPEES

Before the Government of His Highness the Maharaja of Mysore

Bangalore

Petitioner : Bhoopalam Ranjundiah,
Hosadurga

In re: election of non-official President to the Hosadurga Minor Municipality

The Petitioner begs to state as follows:-

1 The petitioner was elected as non-official President to the Hosadurga Minor Municipality and the Government in No L 11372/Al 42-A-1151 dated 23-5-1945 have set aside the election and have ordered action to be taken to hold a re-election The reason for the setting aside of the election is said to be that the vote exercised by one Mr Mohamed Fakruddin Sab is null and void as he was disabled from continuing as a member of the Municipal Council at the time of election under section (b)(6) of the Mysore Minor Municipalities Act 1933 The petitioner brings to the notice of the Government that Mr Mohamed Fakruddin Sab was a nominated member of the Municipality from 1941 to 1944 The said person was holding Municipal contracts having been permitted by the Deputy Commissioner in that behalf, and as he sustained heavy loss on account of the out-break of plague and so he applied to the Deputy Commissioner, Chitaldrug for remission: but the Deputy Commissioner rejected the same On that he appealed to the Government In April 1944

30

1944 while there was a fresh election for the Municipality, Mr Mohamed Fakruddin Sab stood as a candidate for election and his candidature was accepted and ultimately he was elected as a member of the Municipal Council of Hosadurga as his prayer for remission was not granted he deposited the entire amount which was due in the Savings Bank and gave it as security pending orders from the Government to whom he had appealed against the order of the Deputy Commissioner refusing remission . And as the Government did not allow any remission the same amount was adjusted towards the dues As such Mr Mohamed Fakruddin Sab was not disabled from continuing as a member of the Municipal Council at the time of the election and he was not a defaulter and the petitioner begs to submit that there was no disqualification for Mr Mohamed Fakruddin Sab under Section 9(b)(6) of the Mysore Minor Municipalities Act of 1933 The petitioner therefore submits that vote exercised by Mr Mohamed Fakruddin Sab at the election of the non-official President to the Hosadurga Municipal Council is valid in law Therefore the order of Government setting aside the election is to be reconsidered

2 Further the petitioner submits that the candidature of Mr Mohamed Fakruddin Sab having been accepted and he having been permitted to stand as a candidate and succeeded in election and returned as a member of the Municipal Council, the same has been confirmed by the Government and published in the Mysore Gazette also and Mr Mohamed Fakruddin Sab has also taken part in the meetings of the

of the Council After all this, the petitioner submits that it cannot be contended that Mr Mohamed Fakruddin Sab was under any disability to be a member of the Municipal Council and to exercised his vote at the election of the non-official President

Also the remedy of the defeated candidate is by way of a civil suit and the course adopted to set aside the election validly held is contrary to law and the provisions of Section 11 of the Mysore Minor Municipalities regulation

3 The petitioner brings to the notice of the Government that the management of the Municipality extends to about Rs 20,000/- and the contesting candidate is not a well-to-do person paying only a few rupees as kandayam to the Government and not possessing of any valuable immovable properties The petitioner is in all respects a fit person to be the President

4 The petitioner therefore begs to submit that it is necessary in the interest of justice that the Government should take into consideration all the above matters and after giving an opportunity to his counsel to explain all the facts and circumstances and reconsider the order referred to above cancelling the election and directing a re-election

Mangalore,

Dated -6-1945

Advocate for Petitioner

COURT FEE

TWO RUPEES

Before Government
His Highness the Maharaja of Mysore Bangalore

ಕೋರ್ಟಿನಲ್ಲಿ

ಸನ್ 1944—1945 ನೇಯ ಇಸವಿ
(ಅರ್ಜಿದಾರ) ~~ವಾದಿ (ಅಪ್ಪೀಲೆಂಟ್)~~

ನಂಬರು
~~ಪ್ರತಿವಾದಿ~~ (ರೆಸ್ಪಾಂಡೆಂಟ್)

Bhupalam Narayanaiah Vs

M/S A R Somanath Iyer & M A Srinivasa Iyengar
~~ಹೊಸದುರ್ಗದ ಮಲೀಕಾಲಿ ಎಸ್ ಬಿ ನಾಭಿರಾಜಯ್ಯ~~ ಬಿ ಎ, ಎಲ್‌ಎಲ್ ಬಿ
ಅಡ್ವೊಕೇಟ್ಸ್ ~~ದಾವಣಗೆರೆ~~ Bangalore

ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್ ನಾಮೆ

ಈ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ನನ್ನ ಪರವಾಗಿ ತಾವು ಕೋರ್ಟಿಗೆ ಅಪೈರುವರೆವಿಗೂ ಹಾಜರಾಗಿ ಮೊಖದ್ದಮೆ ನಡೆಸುವುದಕ್ಕೂ ಅರ್ಜಿ ವಗೈರೆ ಕೊಟ್ಟು ವಾದಿಸಿ ಫೈಸಲ್ ಹೊಂದತಕ್ಕ ಬಗ್ಗೂ ಡಿಕ್ರಿ ಜಾರಿ ಕ್ರಮ ನಡೆಸತಕ್ಕ ಬಗ್ಗೂ ದಸ್ತೈವಜು ವಗೈರೆ ತೆಗೆದುಕೊಂಡು ರಶೀದಿ ಕೊಡುವುದಕ್ಕೂ ಕೋರ್ಟಿನಿಂದ ವಾಪಸಾಗತಕ್ಕ ದಾವಾಸ್ತಾಂವು ಪ್ರೊಸೀಸ್ತಾಂವು ಮತ್ತು ಡಿಕ್ರಿ ಹಣ ಸಾಕ್ಷಿಭತ್ಯ ಇತ್ಯಾದಿ ಇತರ ವಿಧವಾದ ಎಲ್ಲಾ ಮೊಬಲಗು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಸಹ ತಮಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ ಆದ್ದರಿಂದ ಈ ಭಾಗದಲ್ಲಿ ತಾವೇ ಆಗಲಿ ತಮಗೋಸ್ಕರ ಇನ್ನಾವ ಲಾಯರೇ ಆಗಲಿ ನನಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನೂ ನಾನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪಲು ಇದರಿಂದ ಬದ್ಧನಾಗಿರುತ್ತೇನೆ

ತಾ॥ ರುಜು

ಈ ಮೊಖ್ತ್ಯಾರ್‌ನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ಥರು ನನ್ನ ಸಮಕ್ಷಮ ಇದಕ್ಕೆ ರುಜು ಮಾಡಿದ್ದಾರೆ

~~ಪಟೇಲ್ ಅಥವಾ~~ ಶ್ಯಾನುಭೋಗರ ರುಜು
Kadadanure Puttaiah
Holenarsipur Taluk

ಶ್ರೀ ಹಾಲಸಿದ್ಧೇಶ್ವರ ಪ್ರೆಸ್ ದಾವಣಗೆರೆ

Accepted
Advocate

Appendix F G —1]

SUBJECT

Abd 1

33

Section 14

File No 42 — 44

Serial No 151

Diary No of letter r plied to

No L 11372

To

General and Revenue Secretariat

( )

the 194

The D c chitaldrug

Sir,

Date of issue 23 5 45

with reference to your letter no A 6 c 123/44 dy 1-5-45 forwarding a report received from the S D O Davangere on the election of the new President to the Harihar Municipal Council, I am directed to state that the election of Sri Bhoopalam Nagappa as President of the Municipal Council is validated, in view of the

The correspondence ending with

Signed by M S Rao

List of enclosures

Copied by

Examined by

fact that the vote exercised by one M Mohammed Fakrudden Sahib is null and void ~~for~~ he was ~~disqualified~~ disabled from entering as ~~being~~ a member of the Council at the time of election under Sect 9 (B)(b) of the Nyasa Municipalities Act, 1933 and that the election is, therefore, set aside

Early action may thereby be taken to hold the re-election ~~in that respect~~ and submit a report to first ~~report to observe that~~ bring the entries with the case in submitting the ~~the delay in the submission~~ report thereon as in example

Records accompany

Showcelt
for
23/5/1952
Resident

No L 1983 - T.P. of 13 13/9/45

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*)

Endorsement granted to Sri Bhopal Ram Nagpurdeo, Hosadurga, chitaldrug dt.

with reference to his petition of June 45 praying for a recommendation to the orders passed by govt setting aside his election as the vice-president of the Hosadurga minor hlth ctee, Sri Bhopal Ram Nagpurdeo is informed that his petition is accordingly rejected

There were no grounds for a recommendation to the orders already passed in the matter of that

Sd

for Addl Secy

13/8/45 Memo No L 1984

copy of the above is forwarded to the D C chitaldrug for information

Sd

for Addl Secy

WD 03697—GPB—30 000—2 2 40